

AMENDED IN ASSEMBLY MAY 12, 2010

AMENDED IN ASSEMBLY APRIL 13, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2110

Introduced by Assembly Member De La Torre

February 18, 2010

An act to ~~add Section 10355 to~~ amend Section 1371.8 of the *Health and Safety Code*, and to amend Section 796.04 of the *Insurance Code*, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 2110, as amended, De La Torre. ~~Health insurance: care coverage:~~
premium payments: grace periods.

Existing law, the *Knox-Keene Health Care Service Plan Act of 1975*, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of disability insurers by the Department of Insurance and requires disability insurance policies to include a provision setting forth a grace period for making premium payments. Under existing law, ~~the~~ *that* grace period must equal no less than 7 days for weekly premium policies, no less than 10 days for monthly premium policies, and no less than 31 days for all other policies. Existing law prohibits the Insurance Commissioner from approving a policy for issuance or delivery, and authorizes the commissioner to withdraw approval of the policy, if it fails to meet these requirements.

This bill would require *individual health care service plan contracts and individual* health insurance policies issued, amended, or renewed

on or after January 1, 2011, to provide a grace period of 50 days *for the payment of premiums* and would *make an enrollee or insured who fails to pay the premium during that period liable for any medical costs incurred during the period, except as specified. The bill would require plans and insurers to provide specified notice of this grace period upon issuance, amendment, or renewal of* ~~a~~ *an individual contract or policy.*

Because a willful violation of the bill's requirements with respect to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 1371.8 of the Health and Safety Code is*
2 *amended to read:*
3 1371.8. (a) A health care service plan that authorizes a specific
4 type of treatment by a provider shall not rescind or modify this
5 authorization after the provider renders the health care service in
6 good faith and pursuant to the authorization for any reason,
7 including, but not limited to, the plan's subsequent rescission,
8 cancellation, or modification of the enrollee's or subscriber's
9 contract or the plan's subsequent determination that it did not make
10 an accurate determination of the enrollee's or subscriber's
11 eligibility. ~~This section~~ *subdivision* shall not be construed to expand
12 or alter the benefits available to the enrollee or subscriber under
13 a plan. The Legislature finds and declares that by adopting the
14 amendments made to this section by Assembly Bill 1324 of the
15 2007–08 Regular Session it does not intend to instruct a court as
16 to whether or not the amendments are existing law.
17 (b) *An individual health care service plan contract issued,*
18 *amended, or renewed on or after January 1, 2011, shall provide*
19 *a grace period of 50 days for the payment of each premium falling*
20 *due after the first premium, during which grace period the contract*

1 *shall continue in force. Except as provided in subdivision (a), if*
2 *the enrollee fails to pay the premium owed during the grace period,*
3 *he or she shall be fully liable for any medical costs incurred during*
4 *that period.*

5 *(c) Upon issuance, amendment, or renewal of an individual*
6 *health care service plan contract on or after January 1, 2011, the*
7 *plan shall provide a notice to the enrollee of the grace period*
8 *described in subdivision (b). The notice shall state the following:*
9

10
11 *“The premium for your health care coverage is due and payable*
12 *on [insert specified day] of each month. You will be liable for any*
13 *medical costs incurred after the premium is due unless your*
14 *treatment was authorized prior to the due date of the premium or*
15 *you pay the full amount owed within 50 days after the date when*
16 *your premium is due. Effective January 1, 2014, federal law will*
17 *require you to maintain health care coverage. Please consider*
18 *carefully before failing to maintain coverage.”*
19

20
21 *(d) Nothing in this section shall limit the right of a health care*
22 *service plan to recover unpaid premiums from an enrollee*
23 *consistent with state and federal law.*

24 *SEC. 2. Section 796.04 of the Insurance Code is amended to*
25 *read:*

26 *796.04. (a) A health insurer that provides coverage for hospital,*
27 *medical, or surgical expenses that authorizes a specific type of*
28 *treatment for services covered under a policyholder’s contract or*
29 *plan by a provider shall not rescind or modify this authorization*
30 *after the provider renders the health care service in good faith and*
31 *pursuant to the authorization for any reason, including, but not*
32 *limited to, the insurer’s subsequent rescission, cancellation, or*
33 *modification of the insured’s or policyholder’s contract or the*
34 *insurer’s subsequent determination that it did not make an accurate*
35 *determination of the insured’s eligibility. This ~~section~~ subdivision*
36 *shall not be construed to expand or alter the benefits available or*
37 *the terms and conditions of the contract as may be agreed upon*
38 *between a policyholder, certificate holder, or trust, and the insurer.*
39 *The Legislature finds and declares that by adopting the*
40 *amendments made to this section by Assembly Bill 1324 of the*

2007–08 Regular Session it does not intend to instruct a court as to whether or not the amendments are existing law.

(b) Notwithstanding paragraph (12) of subdivision (b) of Section 10291.5 or Section 10350.3, an individual health insurance policy issued, amended, or renewed on or after January 1, 2011, shall provide a grace period of 50 days for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force. Except as provided in subdivision (a), if the insured fails to pay the premium owed during the grace period, he or she shall be fully liable for any medical costs incurred during that period.

(c) Upon issuance, amendment, or renewal of an individual health insurance policy on or after January 1, 2011, the insurer shall provide a notice to the insured of the grace period described in subdivision (b). The notice shall state the following:

“The premium for your health insurance is due and payable on [insert specified day] of each month. You will be liable for any medical costs incurred after the premium is due unless your treatment was authorized prior to the due date of the premium or you pay the full amount owed within 50 days after the date when your premium is due. Effective January 1, 2014, federal law will require you to maintain health care coverage. Please consider carefully before failing to maintain coverage.”

(d) Nothing in this section shall limit the right of a health insurer to recover unpaid premiums from an insured consistent with state and federal law.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SECTION 1. Section 10355 is added to the Insurance Code, to read:~~

~~10355. (a) For purposes of this section, “health insurance” has the same meaning set forth in subdivision (b) of Section 106.~~

1 ~~(b) Notwithstanding paragraph (12) of subdivision (b) of Section~~
2 ~~10291.5 or Section 10350.3, a health insurance policy issued,~~
3 ~~amended, or renewed on or after January 1, 2011, shall provide a~~
4 ~~grace period of 50 days for the payment of each premium falling~~
5 ~~due after the first premium, during which grace period the policy~~
6 ~~shall continue in force.~~

7 ~~(c) Upon issuance, amendment, or renewal of a health insurance~~
8 ~~policy on or after January 1, 2011, the insurer shall provide a notice~~
9 ~~to the insured of the grace period described in subdivision (b).~~

10 ~~(d) Nothing in this section shall limit the right of a health insurer~~
11 ~~to recover unpaid premiums from an insured consistent with state~~
12 ~~and federal law.~~